

Message

From: Calanog, Steve [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=135FB462487C4C1CBB8380F984A56774-SCALANOG]
Sent: 9/11/2018 1:50:51 PM
To: Thomas, Charles D [Charles.Thomas@BNSF.com]
CC: Stegman, Allen M [Allen.Stegman@BNSF.com]; Kuhl, Brooke [Brooke.Kuhl@BNSF.com]; Tom, Priscilla [Tom.Priscilla@epa.gov]; Mueller, Sarah [Mueller.Sarah@epa.gov]
Subject: RE: Outstanding Legal Questions for Haystack No. 1 TCRA

Charles – During the past 2 weeks Priscilla and I have had a couple of conversations with BIA personnel from the Crown Point Field Office. Over the course of those discussions we understand that BIA's Solicitor has recently responded to BNSF regarding the outstanding questions/issues you identified (below). We've received an email from BIA regarding their responses as well. While BIA identifies potential issues regarding permanent residence we don't believe there are any obstacles to temporary relocation.

Let's set up a call soon to discuss next steps.

From: Thomas, Charles D [mailto:Charles.Thomas@BNSF.com]
Sent: Tuesday, August 14, 2018 1:37 PM
To: Calanog, Steve <Calanog.Steve@epa.gov>
Cc: Stegman, Allen M <Allen.Stegman@BNSF.com>; Kuhl, Brooke <Brooke.Kuhl@BNSF.com>
Subject: Outstanding Legal Questions for Haystack No. 1 TCRA

Steve-

As requested, BNSF has prepared a list of outstanding questions that it would like to discuss with counsel for EPA, BIA, and Navajo DOJ. BNSF's counsel participating in the call will be Brooke Kuhl (brooke.kuhl@bnsf.com - 406.543.0019) and Deana Bennett (dmb@modrall.com - 505.848.1834). If you could pass along contact information for EPA, BIA and Navajo DOJ attorneys, we can try to coordinate the call.

Legal questions relating to Section 18:

- Confirmation that because this is an allotment, and not tribal trust land, the Navajo Homesite Leasing Regulations don't apply, and instead the BIA Part 162 regulations apply, specifically those dealing with residential leases.
- Status of **Ex. 6 Personal Privacy (PP)** right to occupy Section 18 – A residential lease for **Ex. 6 Personal Privacy (PP)** is not identified in Title Report BNSF obtained for Section 18. Navajo EPA (Vivian Craig) reports that it is her understanding that the **Ex. 6 Personal Privacy (PP)** do not have a lease for the property;
- Title report identifies three active residential leases for Section 18 (**Ex. 6 Personal Privacy (PP)**). We need the location of these leases to confirm that these leases are not on or near the mine site. Will need to coordinate further with BIA if any of the existing residential leases are on or near the mine site. In addition, we would want to understand whether there are any other types of leases on the allotment and if so, whether they are on or near the mine site;
- Confirmation that BIA will be a necessary party to approve any future residential lease on the Section 18 Allotment lands and confirm that BIA would need to approve the relocation of **Ex. 6 Personal Privacy (PP)** **Ex. 6 Personal Privacy (PP)** to another relocation (not on or near the mine site) on the Allotment portion of Section 18.
- **Ex. 6 Personal Privacy (PP)** Questions
 - Status of the probate?
 - Will or intestate?
 - Have heirs been identified?

- An online obituary for [Ex. 6 Personal Privacy (PP)] identified a [Ex. 6 Personal Privacy (PP)] [Ex. 6 Personal Privacy (PP)]. Is this accurate? Vivian had said that [Ex. 6 Personal Privacy (PP)] had a daughter, [Ex. 6 Personal Privacy (PP)] (formerly [Ex. 6 Personal Privacy (PP)] [Ex. 6 Personal Privacy (PP)]). Vivian also thought that [Ex. 6 Personal Privacy (PP)] children and that [Ex. 6 Personal Privacy (PP)] was one of [Ex. 6 Personal Privacy (PP)] sons.
- If [Ex. 6 Personal Privacy (PP)] is the sole heir, what role would she play in approving relocation of [Ex. 6 Personal Privacy (PP)] and [Ex. 6 Personal Privacy (PP)] on Section 18? If [Ex. 6 Personal Privacy (PP)] is the sole heir, what role would she play in reviewing/approving future residential leases on Section 18?
- Confirmation that the mobile homes currently occupied by [Ex. 6 Personal Privacy (PP)] are personal property not owned by the estate of [Ex. 6 Personal Privacy (PP)].
- What prevents new parties from relocating to on or near the mine site? What procedures, guidelines or protocols are in place to limit future location of residential leases on the mine site;
- As part of any relocation package offered to [Ex. 6 Personal Privacy (PP)] what approvals would be needed to disconnect water/electrical at the existing home site on Section 18?

Regards

Charles D. Thomas

Director Environmental Remediation

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